VII

ADJOURNMENT MOTION *re* GOVERNMENT SANCTION TO PROSECUTE MR. M. ANNAPURNAYYA.

Mr. P. ANJANEYULU :—" Mr. President, I move—

' *that the business of this House do stand adjourned to discuss a definite matter of urgent, public importance, to wit, the recent action of the Government in granting sanction to prosecute Mr. M. Annapurnayya (Editor of the* ' *Congress* ') *under sections* 124-*A and* 153, *Indian Penal Code.*' "

Mr. G. HARISARVOTTAMA RAO :—" I second it."

* The hon. the PRESIDENT :—" Before I decide whether it is in order or not, has any hon. Member any objection to raise, regarding the question of order ? "

The hon. Diwan Bahadur M. KRISHNAN NAYAR :—" On the merits, we have no objection. On the question of order, it is a matter *sub judice*, as the case is now actually before a Magistrate."

* The hon. the PRESIDENT :—" Here it is proposed to discuss only the sanction granted by the Government."

* The hon. Diwan Bahadur M. KRISHNAN NAYAR :—" Anyhow, the sanction forms one of the series of acts or trasanctions which ultimately constitute the matter for prosecution. How can one act which forms a link in the prosecution be separated from the other links which form the chain of the prosecution ? In fact, the whole prosecution is based upon the sanction. The sanction, the evidence, all these things together constitute the prosecution. It seems to me that this is very clearly a case *sub judice* ".

* The hon. the PRESIDENT :—" Here the question is to discuss the sanction given by the Government. The rule states ' any matter which is under adjudication by a court of law .' The speeches made by Mr. Annapurnayya are the matter that are under the consideration of the Magistrate—whether they constitute sedition under section 124-A. But here the question is to discuss the conduct of the Government in setting the law in motion. Of course no Member will be at liberty to comment on the speeches because they are *sub judice*. They will not be discussed or proposed to be discussed here." 11-45 a.m.

The hon. Diwan Bahadur M. KRISHNAN NAYAR :—" I respectfully submit that it is not so, because the wording is ' any matter which is under adjudication by a court of law'."

* The hon. the PRESIDENT :—" The matter for the consideration of the Magistrate is the speeches made by Mr Annapurnayya."

The hon. Diwan Bahadur M. KRISHNAN NAYAR :—" I submit, no ; because it is open to the accused to take exception to the validity of the sanction itself. You know, Sir, that very often in cases of sedition, the accused takes objection on the ground that no valid sanction has been granted."

* The hon. the PRESIDENT :—" If the hon. Member says that it is one of the contentions of the accused, that question of the validity of the sanction also cannot be discussed."

* The hon. Diwan Bahadur M. KRISHNAN NAYAR :—" We do not know what plea the accused is taking. It is quite open to the accused to take exception to the validity of the sanction. And very often the accused do take exceptions to sanctions. It is really the question of sanction and everything connected with it that is the matter for adjudication before the court of law. We are not in possession of the records of the case. We do not know what plea the accused has taken. It is open to the accused to take all possible objections to the prosecution, and I believe he will take objection to the validity of the sanction ; but I am not in possession of the records."

* The hon. the PRESIDENT :—" The rule contemplates that the Speaker should proceed on the basis that it is a matter under adjudication if any Member of Government states that the matter is under adjudication. Here, if a statement is made on behalf of the Government that this matter is under adjudication, I will accept it."

* The hon. Diwan Bahadur M. KRISHNAN NAYAR :—" As a matter of fact, the judgment, whatever form it may ultimately take, will have to be basede on the sanction. That is the basis on which the prosecution rests ; if that basis is taken away, the whole prosecution fails. So, clearly it is a matter that forms part of the prosecution, that is, it forms a matter for adjudication in a court of law. I go further and submit that, supposing for argument's sake, the accused does not raise the plea of validity of sanction, the court is bound to consider the validity of the sanction. Unless the court is satisfied that there is a valid sanction, the court cannot proceed."

* The hon. the PRESIDENT :—" But here it is the propriety and not the validity of the sanction given by Government that the Opposition want to discuss."

* The hon. Diwan Bahadur M. KRISHNAN NAYAR :—" How can the propriety of sanction be separated from its validity? All these facts have necessarily to be taken into consideration in deciding upon the validity or otherwise of the sanction. You cannot separate the propriety of the sanction, as it may be called, from the validity of the sanction, or the question of sanction altogether from the merits of the case. I submit they all hang together."

* The hon. the PRESIDENT :—" If you consider the propriety of the sanction, it is a political issue, whereas if you consider the validity of the sanction, it is a legal issue."

* The hon. Diwan Bahadur M. KRISHNAN NAYAR :—" Even that distinction cannot be made, because in sedition cases, the legal aspect of the sanction and the political aspect of the sanction cannot be dissociated, one from the other. (Mr. G. Harisarvottama Rao : 'The cat is out of the bag.') Sedition cases are always based on politics. The Government authorizes sanction for prosecution in cases of sedition only on political considerations. It seems to me, subject to whatever ruling you may give, that this is clearly a matter for adjudication in a court of law. I have no doubt personally in my mind about it."

* Mr. R. SRINIVASA AYYANGAR :—" Sir, there is some confusion in the mind of the hon. the Law Member. It has been conceded on all hands, and also decided by the Madras High Court and there is a decision of Sir

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V. Bashyam Ayyangar to that effect, that it is not open to a trying court to enquire into the propriety or otherwise of the sanction that has been granted by a competent authority. Therefore that disposes of the question. If it is a question whether the order which purports to be sanction is forgery or not, that is quite another matter. Whether the Cabinet actually met, whether certain formalities required by law as a condition precedent to the granting of sanction have been gone through, that would be a different matter. Here, this clause (iii) does not deal with any possibilities or conjectures, but deals with 'any matter which is under adjudication by a court of law.' You, Mr. President, can ask the Law Member whether he is in a position to state as to whether the propriety or otherwise of the sanction is under adjudication or something else is being disputed. He says he is not in a position to answer the question. So far as (iii) is concerned the objection must be specific, and the hon. the Law Member must be in a position to state that his objection is founded upon a controversy that has been actually raised before the court and which is awaiting its consideration and not any controversy which may or may not be raised and which even if raised may not be pursued. As I began, I end by saying that the question of propriety or otherwise of the sanction cannot be gone into by a trying court and this House alone can consider it. The objection of the hon. the Law Member therefore fails."

* The hon. the PRESIDENT :—"In discussing the matter whether the Government has properly accorded sanction, reference to the speeches made by Mr. Annapurnayya may be necessary. And the speeches made by Mr. Annapurnayya are the subject matter of the trial. I am not able to understand how any discussion can proceed without any reference to it. You propose to examine the question of the propriety of the sanction accorded. The propriety of the sanction accorded has to be justified on behalf of the Government by reference to the speeches made by Mr. Annapurnayya, and a discussion on the speeches cannot be allowed—I think that is admitted."

Mr. P. C. VENKATAPATHI RAJU :—"Instead of going into the merits of the individual speeches of Mr. Annapurnayya, the House may discuss the present policy of the Government in launching prosecutions against political activities, and especially the particular matter in which Mr. Annapurnayya is concerned."

* The hon. the PRESIDENT :—"The question of policy cannot be the matter of an adjournment motion. It must be a matter of recent occurrence, it must be a recent event. The policy adopted by Government cannot be said to be a recent event."

Mr. C. RAMASOMAYAJULU :—"I submit that some attention may be paid to the wording of the motion. It refers to the recent action of the Government in sanctioning the prosecution of Mr. Annapurnayya. It refers to a particular policy."

* The hon. Diwan Bahadur M. KRISHNAN NAYAR :—"Now, apart from the political aspect, suppose he has made a seditious speech, then the Government will be perfectly justified in granting sanction. If, on the other hand, he has made a speech which is free from sedition, then the Government will be wrong in granting sanction. So, it really depends on this, namely, whether he has made a seditious speech or not. Thus, this action, namely, the action of granting sanction cannot, I submit, be discussed, without a reference to the speech or speeches for which sanction has been granted ; and

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the speech or speeches form really, along with other matters, the subject-matter which the Magistrate has to discuss and dispose of. I submit therefore that the question of granting sanction alone cannot be considered in the abstract. It is impossible to consider that aspect without a consideration of the merits of the speeches, and of course the merits of the speeches are before the court."

* Mr. S. SATYAMURTI :—" May I submit that the last few words of the hon. the Law Member conclude the matter? The question before the House which we want to raise by this motion is not whether the speech is seditious or not. That is certainly *sub judice*. The hon. the Law Member has wholly misconceived the position of the Government, if I may respectfully say so. In the matter of granting sanction, it is not as if in every case where a person makes a speech, which according to the opinion of their legal advisers is seditious, they grant sanction. The Government have got the discretion under the Criminal Procedure Code either to grant or not to grant sanction in cases of speeches which are seditious according to their legal advisers. There is no possibility of Government granting sanction in a case where the speech is not seditious. That is out of the question. But in cases where the Government are advised by their legal advisers that the speeches are seditious, there is no duty cast on the Government to grant sanction. The Government either may or may not grant sanction. The only question we want to raise is to discuss on the floor of the House the propriety and expediency of the sanction given by this Government, and the policy of the Government in so far as it is illustrated by this one event, that is to say, the prosecuting of a prominent Congress worker for alleged seditious speeches. Otherwise—if the hon. the Law Member's contention was correct, namely, that the Government grant sanction only in the case of seditious speeches and does not grant sanction in the case of non-seditious speeches—the trial becomes a farce; because Government have not the means or the power to judge finally on this question of the seditious or innocent character of the speeches. They are only the executive authority setting the machinery of the courts in motion; and the only point we want to discuss is the question whether the Government were right, for political reasons, on political considerations and on political considerations only, in thus prosecuting a Congress worker. I submit, Mr. President, in the words of the rule governing resolutions, this is not a matter which is pending adjudication before a court of law. The validity of the sanction can be questioned only on one of the three grounds. You know, as every lawyer knows, that the question can be raised whether there was a meeting of the Cabinet or whether the proceedings were formally drafted or signed. Apart from that, no question can be raised in the courts of law as to the propriety or expediency of the sanction or the political soundness of the sanction. These are questions which cannot be discussed anywhere else except here. This is the only place where we can discuss this question. I therefore venture to submit that this is the only opportunity, this House is the only forum where people can raise the question of the propriety of sanctioning such prosecutions for sedition. Whether the matter or nature of the speeches is seditious or not is wholly irrelevant to the debate. I agree with you, Mr. President, that the scope of the debate is limited. We, on this side of the House, will do nothing to extend the scope of the debate and you can depend upon the House confining itself to the limits prescribed by you."

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* The hon. the PRESIDENT :—" The only question is the expediency of the sanction accorded by Government. That cannot be, and is not, the subject-matter, of the criminal proceedings that are pending. Therefore I think the motion is in order. I wish to know whether the hon. Mover has got the leave of the House. (After a pause.) Since no Member objects, I declare that the hon. Member has got the leave of the House." 12 noon.

The hon. Diwan Bahadur M. KRISHNAN NAYAR :—" The motion may be taken up to-morrow afternoon, Sir."

Mr. P. C. VENKATAPATHI RAJU :—" No, Sir, the non-official days are not even now sufficient for the transaction of pending non-official business and therefore I submit that this motion may be taken up on an official day so as not trench upon the days allotted for non-official business."

* The hon. the PRESIDENT :—" I think the question as to when this item is to be taken up has to be decided more with reference to the interval available after notice has been given. Though no doubt every Member has got the right to move similar motions by mentioning them to me before 11 o'clock, there must be sufficient interval to enable preparations being made and the Standing Order itself was amended for this purpose only. Therefore we will take up the motion at 2-30 p.m. to-morrow."

VIII

FINANCE COMMITTEE.

The hon. Sir THOMAS MOIR :—" Mr. President, I move

> '*that a vacancy having occurred in the Finance Committee by the death of M.R.Ry. P. Bhaktavatsulu Nayudu Garu, M.L.C., this Council do proceed to elect a member to the said Committee for the purpose of filling the vacancy*".

The hon. Khan Bahadur Sir MUHAMMAD USMAN SAHIB Bahadur :—" I second the motion."

The motion was put and carried.

The hon. the PRESIDENT :—" I have to inform the House that with reference to Regulation II of the Regulations for the holding of elections by means of the single transferable vote, I fix 3 p.m. to-day as the time by which nominations of candidates for election of a member to the Finance Committee should be sent to the Secretary".

IX

THE HOUSE COMMITTEE.

The hon. Khan Bahadur Sir MUHAMMAD USMAN SAHIB Bahadur :—" Sir, I beg to move

> '*that with a view to appoint a House Committee in pursuance of Standing Order No. 80, this Council do proceed to elect six members to be members of the said committee according to the principle of proportional representation by means of the single transferable vote.*' "

The hon. Sir THOMAS MOIR :—" I second it."

The motion was put and carried.